

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JOHN W. TALBOT,

Petitioner,

v.

LARRY L. JENKINS, Warden,
Redgranite Correctional Institution,

Respondent.

ORDER

09-cv-28-bbc

On January 15, 2009, petitioner John Talbot filed this action for a writ of habeas corpus under 28 U.S.C. § 2254. On February 6, 2009, this court entered an order staying the petition while petitioner exhausted his state court remedies. Dkt. #7. The stay was granted on the condition that, after completely exhausting his state court remedies, petitioner had 30 days from the date of the last order from the state courts in which to file a motion in this court to lift the stay. Petitioner was warned that if he failed to meet this condition, “the stay may be vacated *nunc pro tunc* as of the date of this order and the petition may be dismissed.” *Id.*, at 2.

On June 15, 2010, the state filed a letter with the court, saying that on March 16, 2010, the Wisconsin Supreme Court denied petitioner’s petition for review of the denial of his state-level petition for a writ of habeas corpus. Dkt. #8. Under this court’s order of

February 6, 2009, petitioner should have filed a motion to lift the stay no later than April 16, 2010. It is now June 23, 2010 and petitioner still has not filed a motion. Accordingly, it appears that it is appropriate to vacate the stay and dismiss the petition. Before doing so, however, I will allow petitioner an opportunity to show cause why his petition should not be dismissed.

ORDER

IT IS ORDERED THAT petitioner John Talbot has until July 9, 2010 in which to submit a memorandum to the court explaining why he did not file a motion to lift the stay on or before April 16, 2010. If petitioner fails to submit this memorandum by July 9, 2010, the stay will be vacated and the petition will be dismissed.

Entered this 24th day of June, 2010.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge